



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

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| <b>Agency Name:</b>        | Department of Environmental Quality  |
| <b>VAC Chapter Number:</b> | 9 VAC 15-20  |
| <b>Regulation Title:</b>   | Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling in Tidewater, VA |
| <b>Action Title:</b>       | Periodic Review  |
| <b>Date:</b>               | 6/8/01   |

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

The purpose of the regulation is to protect waters of the Chesapeake Bay from discharges of oil and gas resulting from well drilling and related production and transportation activities. The criteria and procedures set forth in the regulation include (I) describing the proposed oil or gas drilling, production and transportation operation, (ii) describing environmental and natural resource features potentially affected by oil or gas drilling, production or transportation operation, (iii) analyzing the probabilities and potential consequences of an oil or gas discharge to the environment, (iv) describing the potential fiscal and economic impacts associated with drilling, production or transportation activities, (v) discussing potential secondary impacts resulting from induced economic development, and (vi) public and agency review and comment procedures.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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Virginia Code §62.1-195.1 requires the Department of Environmental Quality, in accordance with the Administrative Process Act, to develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments for oil or gas well drilling activities proposed to be conducted in Tidewater, Virginia. There is no applicable federal mandate.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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During the public comment period, DEQ received one comment from the Department of Conservation and Recreation. In general, DCR requested that the regulations include the Department and other agencies on the mailing list for receiving notification of environmental impact assessments, specific plans for development and other related review material. DCR's requests are already built into the DEQ's review process. The review of oil and gas drilling projects will be conducted in accordance with the Environmental Impact Review Procedure manual that has been developed pursuant to Virginia code § 10.1-1188 et.seq.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The goals of this regulation are to (1) protect public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and (2) establish criteria and procedures for preparing and evaluating environmental impact assessments for oil or gas well drilling operations and related production and transportation activities proposed to occur in Tidewater Virginia to protect waters of the Chesapeake Bay from discharges of oil and gas resulting from the operations/activities.

The regulation is effective in meeting its goals and is essential to protect the health, safety or welfare of citizens by ensuring that possible environmental impacts from an oil or gas well drilling operation are considered so that appropriate safeguards can be provided for the Commonwealth's natural resources.

The regulation was subjected to extensive review by a wide range of reviewers (state and local government officials and the general public), prior to final approval. Changes were incorporated to improve the clarity and simplicity of the regulation.

**Alternatives**

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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The regulation is mandated by statute. The Department considered using a checklist to be filled out by the applicant instead of a narrative document. However, this alternative was rejected. A checklist would not provide an applicant with sufficient information to prepare an assessment or the State to review an assessment, nor was a checklist deemed appropriate as the foundation of the regulation itself.

**Recommendation**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department is recommending that the regulation stay in effect without any changes.

**Family Impact Statement**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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This regulation has no direct impacts on the institution of the family and family stability.